



Legislative Assembly of Alberta

The 27th Legislature
Third Session

Standing Committee
on
Health

Freedom of Information and Protection
of Privacy Act Review

Monday, October 25, 2010
6:31 p.m.

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**Legislative Assembly of Alberta
The 27th Legislature
Third Session**

Standing Committee on Health

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6:31 p.m.

Monday, October 25, 2010

[Mr. McFarland in the chair]

The Chair: Good evening, everyone. We've been given the okay that we can proceed with our meeting of the Standing Committee on Health. I'd like to call the meeting to order and ask that we introduce ourselves for the record and indicate those of us that are substituting for others for the record. If I could, I would begin with our beleaguered, hard-working committee clerk.

Mrs. Sawchuk: Karen Sawchuk, committee clerk.

Mr. Elniski: Doug Elniski, MLA, Edmonton-Calder, substituting for Dr. Raj Sherman.

Mr. Olson: Verlyn Olson, Wetaskiwin-Camrose.

Mr. Quest: Dave Quest, Strathcona.

Mr. Horne: Fred Horne, Edmonton-Rutherford.

Dr. Massolin: Good evening. Philip Massolin, committee research co-ordinator, Legislative Assembly Office.

Ms LeBlanc: Stephanie LeBlanc, legal research officer at the Legislative Assembly Office.

Ms Nugent: Di Nugent, Service Alberta.

Ms Arseneau: Cheryl Arseneau, Service Alberta.

Ms Mun: Marylin Mun, assistant commissioner with the office of the Information and Privacy Commissioner.

Ms Blakeman: Good evening, everyone. Substituting for Kevin Taft, this is Laurie Blakeman coming to you from the fabulous constituency of Edmonton-Centre, to which I welcome each and every one of you.

Ms Notley: Rachel Notley, Edmonton-Strathcona.

Mr. Vandermeer: Tony Vandermeer, Edmonton-Beverly-Clareview. Good evening.

Mr. Groeneveld: George Groeneveld, Highwood.

Mr. Lindsay: Fred Lindsay, Stony Plain.

The Chair: Good evening. Barry McFarland from Little Bow. I don't know how it couldn't be more fabulous than here because it hasn't even started to snow or rain down there, Ms Blakeman.

Ms Blakeman: Oh, well. There, you see.

The Chair: Okay. We've got the approval of the agenda here. Our committee clerk has advised me that the minutes for October 13, our last meeting, will be available at the next committee meeting. We don't need to bother about why she didn't get them ready in time for tonight, just take her at her word that they were trying to get the final draft done here.

If there are some other items for the agenda, we could add them under other business. Ms Blakeman.

Ms Blakeman: Thank you, Mr. Chair. That's exactly what I'd like to do: under other business add in a discussion of minority reports, please, and deadlines so that we can get some advice and input from the research staff.

The Chair: Okay.

Ms Blakeman: Thank you.

The Chair: Any further items for other business? Seeing none, may I have a mover that the agenda for the October 25 meeting of the Standing Committee on Health be adopted as revised? Mr. Quest has moved. All in favour? Opposed? Carried.

Now, we do have some minutes from September 27 and September 29. If there are not any corrections to errors in those, I would entertain separate motions for approval. Mr. Lindsay has moved the September 27 minutes he adopted. Seeing no hands raised for comments, all in favour? Opposed? Carried.

The minutes of the September 29, 2010, meeting. Is there a mover? Mr. Groeneveld. All in favour? Opposed? Carried.

Getting into the grist of the meeting here, all the members should have a copy of the committee's draft report. For those listening and those interested in reading, this was posted on the internal committee website last week, and I know that many of you were busy going through this thing even early this week. Before we have any committee discussion, I'd like to ask Ms LeBlanc to provide an overview of the report, specifically to speak to some possible revisions to the motions, if necessary, that were passed by the committee. Once they've been provided with the background information, we'll have a discussion as a committee. I also understand that Ms Blakeman has some issues with the draft report, and she can ask research staff to make comment on those. Ms LeBlanc, please.

Ms LeBlanc: Thank you, Mr. Chair. This draft report incorporates the recommendations of the committee made at its September 29 and October 13 meetings. The recommendations are numbered, and they're listed in the executive summary as well as in the body of the report. In cases where we've suggested some substantive changes to the motions, we've placed these in square brackets and highlighted them in yellow, so there are changes in recommendations 4, 8, 10, 11, and 12.

In recommendation 4 we made some suggested changes to try to capture the intention of the committee. Section 4 of the FOIP Act deals with records excluded from the application of the act, and the motion approved by the committee suggests that the intention was to exclude the officers themselves rather than their records from the act. If that was the committee's intention, then you might want to look at excluding them from the definition of public body as opposed to putting that exclusion in section 4.

A further suggested change in recommendation 4 was with respect to the process of responding to formal complaints. The motion as passed did not indicate what type of complaints the committee was suggesting that the Standing Committee on Legislative Offices consider. After the report was posted, we had some feedback from the representative from the Information and Privacy Commissioner's office that the last highlighted portion of this recommendation was confusing, so some alternative suggested wording would be: formal privacy complaints relating to records of the officers of the Legislature that are excluded from the FOIP Act. I know Ms Blakeman has some comments with respect to this particular recommendation, so I can provide that wording again at that point if it's still necessary at that time.

In recommendation 8 it's suggested that clause (a) be struck out because section 11(1) contains the 30-day time limit in the act while clause (a) of that subsection deals with an extension of the time under section 14. If this change is approved, we would also strike out clause (a) in the first paragraph under the heading on page 11.

Changes to recommendations 10 and 11 were for clarification by adding references to the sections that contain both the exception and the time limitation.

Then recommendation 12 was included in response to a discussion of the committee on October 13, and that's at page HE-687 of *Hansard*. That indicated that the intention of the motion with respect to section 24 was to reduce the time limit in section 24(2.2) and section 6(8) in addition to section 24(2). There was not a formal motion with respect to this recommendation, so research staff drafted this recommendation and highlighted it just for the committee's consideration.

I think that's it. I just want to point out that these changes are suggestions only, and we'd be looking to the committee for direction with respect to whether they should be incorporated into the final report.

Thank you.

6:40

The Chair: Thank you. Any questions or discussion on Ms LeBlanc's comments? How does the committee wish for us to proceed, then, on the advice that she has given us? It's been suggested that maybe Ms Blakeman could bring her comments forward now, and then we can incorporate them altogether.

Ms Blakeman: Sure. I think they can be handed out. I'll start out with an explanation and an apology. In the changes that I wanted to see, I know everybody likes to see them written out, so I presented them in the order that they appear in the document, with my suggestions. Then to quote my aunt: the hurrier I go, the behinder I get. In fact, for two of the recommendations that I looked at and huffed and puffed about, that isn't what I wanted. When you actually look at *Hansard*, that is in fact what the motion was.

In one case, if any, that appears under page 9. Recommendation 3 has been crossed out because that's exactly what the motion was that was passed. There's a later one that was also crossed out because that is, in fact, the motion that was passed. So my apologies for any muttering under my breath that the research staff may have heard. They've as usual done an excellent job. I just needed a bit more sleep, and I would've been fine.

Do you want me to just walk through these, Mr. Chair? Okay.

The first is a general point that I've made. I've learned to be very careful with language in legislation. In a couple of places we see the word "exempt" or "exemption," and I've suggested that that be removed and replaced with the words "excluded" or "exclusion," meaning the act does not apply to that particular section, or "excepted" or "exception," meaning information could be withheld as applicable. That's the language that's used everywhere else in the act. Legislation: when you add another phrase in there, people write PhDs on it, trying to figure out what, in fact, was meant. So my suggestion is that the language that's used in the act is "excluded" and "excepted" and that where "exemption" appears in our document, it should be changed to one of those two.

The second one has been deleted.

The third point is on page 10 of the draft report regarding recommendation 4, which actually sort of starts on the previous page. It starts at the bottom of page 9, I think, and goes to the top of page 10, which is how I made the mistake about the numbering, so

it is in fact changing recommendation 4, not recommendation 5. What I've suggested is that the words that are appearing in the brackets, which is also something that was dealt with by Ms LeBlanc, be deleted because I think it made it confusing. I'm suggesting that for greater clarity we add the word "privacy" before the word "complaints," so it would be, "the Standing Committee on Legislative Offices consider establishing a process, which is published, to respond to formal privacy complaints regarding officers of the Legislature." That was the intent of what I was trying to do. There has to be a way for people to actually bring forward a concern if an individual felt that one of the officers had somehow violated their privacy. There had to be a way to deal with this, and this was the way, to go through the standing committee. So that's my suggestion on that section.

The Chair: Just for clarification, Ms Blakeman, are you on page 9 just suggesting that the word "privacy" be added between "formal" and "complaints"?

Ms Blakeman: It's actually on the top of page 10. I'm suggesting that the words that are shown in shadow all the way through that recommendation be deleted and that the word "privacy" be added in the final paragraph before "complaints."

Okay. I'll keep going. On page 14 the first bullet is about that last paragraph before recommendation 13. I am suggesting a reworking of it in that the first sentence would be cut and amended to read what's in front of you on the motion. Essentially, it spells out:

The Committee noted that any collection of business contact information would be restricted to cases where the collection is authorized by an enactment, is for law enforcement purposes, or the information relates directly to and is necessary for an operating program or activity of a public body.

That's covering essentially what is going on and what they want to formalize. The motion itself changes to the motion I've changed because, in fact, that is the motion as it was passed.

On page 15 I'm talking about the heading Disclosure of Personal Information for Law Enforcement Purposes. I just think that that's misleading because then we go on and talk about victims of crime and notifying and getting consent. It's actually not about law enforcement; I think it's by law enforcement. So I wanted to change that so it was a little clearer, to read Disclosure of Personal Information by Law Enforcement Agencies, which makes it clearer who's doing it. Then it goes into the detail.

Finally, on the fourth paragraph, still on page 15, which is the one that starts,

An additional issue was raised for discussion, namely that the Government should consider whether the FOIP Act needs to be amended to permit police agencies to share personal information relating to internal investigations (as opposed to criminal investigations).

I am suggesting that the rest of that paragraph be deleted because I believe that the information that is being debated here is in fact covered in 1(h).

Ms Notley: You mean paragraph 4 after that heading? Is that what you mean by paragraph 4?

Ms Blakeman: Yes. So all you would end up with is the sentence that I read into the record, but the rest of that would be cut. It's talking about: law enforcement agencies are hindered because they're not allowed to share personal information. Well, they are, and it's under section 1(h), so I think it's correct to take that out.

On page 16, recommendation 16, I'm asking that a paragraph be added to the discussion of disclosure of personal information to victims of crime, observing that the FOIP Act already permits disclosure of some information about a perpetrator to a victim under section 20(6) in response to a FOIP request. So that is possible and does exist and I think should be part of that discussion in that section.

Next is page 19, recommendation 22. This is under the heading Disclosure of Privileged Information by the Commissioner to the Minister of Justice and Attorney General Where the Information Pertains to the Commission of an Offence. This is about the middle of page 19. I just think that that paragraph needs to be shortened and the language made a bit more layperson friendly. I'm suggesting that it be replaced with:

The Committee heard that a similar provision in the Personal Information Protection Act (PIPA) was amended to expressly prohibit the Commissioner from disclosing information relating to the commission of an offence to the Minister of Justice and Attorney General if the information is subject to solicitor-client privilege.

That is the extent of my foray through the draft report. Thank you.

6:50

The Chair: Thank you. Could I ask that any of the people that we appreciate their help from make a comment on anything that Ms Blakeman has proposed, or is this all quite new to you as well?

Ms Mun: If I may add what sprang to mind with respect to recommendation 4, I think you're recommending that the phrase that was in the brackets be deleted. Reading it would mean, then, that the Standing Committee on Legislative Offices consider establishing a process, which is published, to respond to formal complaints regarding officers of the Legislature.

Right now the way the officers of the Legislature are, all their records are outside the act except for the records that are in the proposed amendments, which are their employment records of employees and administrative records. If you take out some phrases that limit that privacy complaint, then individuals may file privacy complaints against any of the officers of the Legislature to the standing committee, even for records that are included under the FOIP Act. Then does that mean our office can investigate and yet the standing committee can also investigate?

Ms Blakeman: This was meant to provide a venue for an individual who felt that their personal privacy had been impinged on or violated by one of the officers as they went about their business. There's no other way for anyone to bring it back and say: I want to complain about this. There's no place to take it. There's no opportunity in the act to allow anyone to complain about an officer of the Legislature. This is to put it in that they can take it to the standing committee. The intent here is that the standing committee would establish a process to deal with these complaints. It would be published so that people could see what it was before they got into it and that it is to respond to formal privacy complaints regarding officers of the Legislature.

Your question is: are we talking about breaches of privacy concerning records or breaches of privacy concerning officers? Well, at this point the problem is: where do people go if they feel that, you know, their record got released by one of the officers wrongly? I think there needs to be a process to deal with it. At this point I would hand it over to the experts and say: if you want to insist that it says "records" or it says "not," I don't care. I'm just trying to create a process for individuals to use, and that would be by asking the standing committee to create that process and publish it.

Ms Mun: I understand that. I was just thinking that you may want to just qualify this to say that it would be relating to complaints against the officers of the Legislature in relation to records that are excluded from the act. My understanding of what the committee was talking about was that for records that are outside the FOIP Act, these individuals have no recourse. However, if there were records that are subject to the FOIP Act, these individuals have a right to come to the commissioner's office to request a review, and we would investigate those.

Ms Blakeman: Yeah. We don't want it reviewed in two places.

Ms Mun: That's right.

Ms Blakeman: So you're suggesting: regarding officers of the Legislature in relation to records outside the act. I'm fine with that.

The Chair: Any comments on the dialogue that's taken place? Stephanie? Philip? Anything?

Ms LeBlanc: The wording I'd suggested at the beginning, when I was discussing the draft report, was: respond to formal privacy complaints relating to records of the officers of the Legislature that are excluded from the FOIP Act.

Ms Blakeman: That's fine.

The Chair: You've got that noted down, then?

Ms Blakeman: Somebody does, but it's not me. Do you have it? Okay.

The Chair: Okay. So we're not falling over ourselves here, if we've had discussion on something like Ms Blakeman has just presented, then do we want to move these as individual motions, get them out of the way? If that's the case, then does this report have to be again revised and then reviewed?

Mrs. Sawchuk: Well, I think, Mr. Chair, it will depend on whether it's a substantial change and whether we get into the position of having to rescind a motion. I think in this case it's just a wording change. The end result is the same.

The Chair: Like housekeeping?

Mrs. Sawchuk: Yes. It doesn't alter the motion that went forward initially.

The Chair: No. Okay. I just wanted to know if that can be incorporated at this draft stage.

Ms Blakeman: Yeah. It's not my intent to make substantive changes here. It was so that the report accurately reflected, in my opinion, what the intent of the committee was and the process that we had gone through. It's more like miscellaneous statutes, then.

The Chair: Then that way there's no need to have a minority report because everything is good, right?

Ms Blakeman: Nice try. Good on you.

I'm happy to do them one recommendation at a time, to vote on them that way.

The Chair: Okay. I would ask that since Stephanie said she's got it written down, you read it back for the record, and I'll call a vote on what has been presented.

Ms Blakeman: Yeah. That's fine.

Ms LeBlanc: Okay. For the majority of this recommendation we'd be going back to the original motion, so I'll try to incorporate that as well as the proposed wording at the end. It would read:

Section 4(1)(d) of the FOIP Act be amended to specifically exclude the application of the act to officers of the Legislature except insofar as it applies to

- (a) the employment and remuneration of employees of the offices of the officers of the Legislature, and
- (b) matters of administration only arising in the course of managing and operating the offices of the Legislature, including contracts for equipment and services,

and that the Standing Committee on Legislative Offices consider establishing a process which is published to respond to formal privacy complaints relating to records of the officers of the Legislature that are excluded from the FOIP Act.

Ms Blakeman: That's it.

The Chair: Okay. I'm going to call the question. All in favour? Opposed? It's carried. Thank you.

The next one, then, Ms Blakeman, would be . . .

Ms Blakeman: Page 14, which is the end of the paragraph preceding recommendation 13. The first sentence of that paragraph is deleted. So the whole paragraph would now read:

However, the Committee agreed with the intent of the proposed recommendation to make the operations of public bodies more efficient. The Committee noted that any collection of business contact information would be restricted to cases where the collection is authorized by an enactment, is for law enforcement purposes, or the information relates directly to and is necessary for an operating program or activity of the public body.

I just think it's more understandable, cleaner.

Ms Mun: I know this speaks to section 34 of the FOIP Act, and I had understood that the recommendation, or the motion, to the committee was in relation to allowing public bodies to indirectly collect business contact information if that information was directly related to and necessary for an operating program. Right now under section 34 of the FOIP Act there are provisions that will allow a public body to collect that information if it is authorized by an enactment and for law enforcement purposes. So those two circumstances already exist under section 34, but the one that doesn't is the one that was recommended through, I think, a Service Alberta submission about: related to and necessary for an operating program or activity of a public body.

7:00

Ms Blakeman: Yes. So for information purposes you think the first two should be deleted from the paragraph?

Ms Mun: Yeah. I don't think it's necessary because they already exist under section 34.

Ms Blakeman: Yeah. I was looking for clarification that it could be done in any of these circumstances. Because it's not a motion, I felt it was helpful to have the additional information in there.

Dr. Massolin: Mr. Chair, just maybe a reminder to the committee that this section prior to the amendments, of course, in this particular

case just reflects the committee's discussion, so just a reminder to the committee of that fact. It's not necessarily in the recommendation per se, as you well know, right?

Ms Blakeman: Yup.

The Chair: Are you saying it was more a notation of what the committee discussed?

Dr. Massolin: Right.

Ms Blakeman: We're just coming at it in two different ways. I just think mine's clearer, but you're welcome to argue with me.

Mr. Lindsay: Well, the only comment I'd make is that I think the way it's written, it reflects the discussion we had, so I'd be in favour of leaving it the way it is.

The Chair: Any other comment?

Ms Blakeman: I disagree, but that's okay. We don't have to spend a lot of time on it.

The Chair: We've heard from Ms Mun. We've heard from Dr. Massolin. Anyone else?

Mr. Olson: Just a question. We're talking about two different interpretations of what the discussion was, or would you all agree that they both reflect what the discussion was? It's just a different way of saying it. Is there a substantive difference between the two? I'm sorry; I'm having a little trouble understanding what the distinction is.

Ms Blakeman: That's okay. I just thought it was important to have the law enforcement and authorized by an enactment as part of it. This was a very long discussion, and it ranged back and forth for quite some time over lots of different topics, and I just thought those two things.

Call the question.

The Chair: I'm kind of at a quandary here because I think everyone is kind of set in their interpretation of what the discussion was, but I don't know quite how to resolve it. Ms Blakeman suggested one thing, and other members feel what the discussions were and how it was recorded are adequate.

Ms Blakeman: Well, it's a motion. It's on the floor. Vote me down.

The Chair: Then we will call the vote on the discussion by way of a motion that Ms Blakeman has presented midway through the page. All in favour of Ms Blakeman's motion? Opposed? The motion is defeated.

Page 15, Laurie.

Ms Blakeman: Yeah. This is the changing of the heading and the deletion of the paragraph below.

The Chair: Any comment from our research? Basically, it's changing "for" to "by."

Ms Blakeman: And adding "agencies" so it's "Disclosure of Personal Information by Law Enforcement Agencies."

The Chair: Right. Any comments? I believe it's fairly self-explanatory.

Can I call the question?

Ms Blakeman moved that the heading be amended to read Disclosure of Personal Information by Law Enforcement Agencies.

All in favour? Opposed? It is carried.

I can tell we're having good, open voting here. We've got some almost unanimous and some that are split but still pretty good majorities here. It's good.

Page 16.

Ms Blakeman: No. The bottom half of that one is paragraph 4 except for the first sentence. Because 1(h) does go through quite a bit, do you want me to read it into the record?

The Chair: I think so, please.

Ms Blakeman: Okay. Under the definitions section, section 1 in the act:

- (h) "law enforcement" means
 - (i) policing, including criminal intelligence operations,
 - (ii) a police, security or administrative investigation, including the complaint giving rise to the investigation, that leads or could lead to a penalty or sanction, including a penalty or sanction imposed by the body conducting the investigation or by another body to which the results of the investigation are referred, or
 - (iii) proceedings that lead or could lead to a penalty or sanction, including a penalty or sanction imposed by the body conducting the proceedings or by another body to which the results of the proceedings are referred.

When we're saying of the FOIP Act, "In turn, it was pointed out that this sharing of information can occur in a criminal investigation but that an obstacle appears to exist for investigations relating to internal matters," I think that's covered by 1(h): "by the body conducting the investigation or by another body to which the results of the investigation are referred." I think it's covered in here.

The Chair: Okay. Comments from research, legal, Privacy Commissioner?

Ms Mun: Yeah. The definition of law enforcement would encompass the administrative investigation that the police are doing.

The Chair: Okay. Any other questions? Mr. Horne.

Mr. Horne: Thank you, Mr. Chair. Well, you know, we can certainly vote on this. When I'm looking at these amendments – you know, I appreciate Ms Blakeman taking the time to draft them and bring them forward – I guess we have to be clear about whether we're talking about something that's a substantive change to a recommendation that's been discussed and approved by this committee in the past or whether we want to take issue with the particular views of others that presented to us, either in writing or in personal form. I do recall Ms Blakeman making the point in an earlier meeting that she disagreed with the contention that there may be an issue in terms of inhibiting investigations with respect to the section that she quoted as a reference. You know, I fully accept that as one interpretation.

I guess what I'm saying is that I think we have to balance the discussion about the substantive recommendations we want to make with our duty to also reflect the views and the positions that were put forward to us in the submissions. It would seem to me that everything that is not in bold print here, for the most part, is an attempt to

reflect the breadth and the depth of what was presented to the committee.

Notwithstanding the point that Ms Blakeman just made with respect to this particular section, I personally don't have an issue, and I think we have a certain degree of responsibility to reflect the views that were brought before us. I mean, you know, I can read the law as well as anyone else, but I'm certainly not a lawyer, so I don't think it's the role of the committee in the report to take issue with views that were presented to us. I think our role is to look at all the information put before us, apply our best judgment, and arrive at some recommendations. I think we've accomplished that. I guess I'm disinclined to support this sort of a motion unless I can see that it has a substantive effect on the recommendations that we're putting forward as a committee.

The Chair: Thank you.

7:10

Dr. Massolin: Just to point out maybe for clarification purposes, this section actually came from the committee discussion that took place on September 27. I can reference the actual page of *Hansard*. It's HE-614. It was a concern that was raised by a committee member, Mr. Lindsay. The information that is referenced in the report comes from that discussion and a rebuttal, if I can call it that, by Ms Blakeman.

The Chair: Okay.

Mr. Horne: If I recall, Mr. Chair, that discussion emanates from some specific submissions that were made to the committee. I believe one was from the Edmonton Police Commission, and there was another one as well. While the paragraph may be with reference to a committee discussion, I think what we are here to discuss is, in fact, what was presented to us as a committee.

Anyway, I don't want to belabour the point. I'm just trying to make the distinction between motions that deal substantively with our recommendations and balance that with our responsibility to reflect different views as opposed to taking issue with them.

The Chair: Okay. I'm trying to chair this thing impartially. I'm hearing that some feel it's our duty to reflect what people presented to us, and others might in a well-meaning way just be trying to clarify exactly what those comments might have meant.

In fairness, Ms Blakeman, do you have a final comment before I call the question?

Ms Blakeman: Well, yes. I'm just very aware that all of the work that we have done, as much as we'd like to think people read *Hansard* every day, essentially disappears when this report is finalized, and 99.9 per cent of the time the only thing people will look at in the future is that report.

I'm trying to balance going into exhaustive detail to describe every conversation we had, which would just be awful for a report and way too long for people to ever read, but in that situation it's just inaccurate, and I don't want to leave it there, being inaccurate, because that's what people are going to end up reading for the next 25 years. Yeah, we're trying to reflect the discussion that we had, but my concern about that one is that it stays there, and people read and believe that an obstacle appears to exist for investigations relating to internal matters. Well, the act doesn't present that obstacle.

That's my concern about that one. I wouldn't nitpick through the rest of it, but I'm really conscious that this is what's left of the six

months of work that we've put into it, and I just didn't want that one hanging out there, leading people to believe that there was an obstacle existing for internal investigations. It doesn't.

If you want to go ahead with that, vote me down.

The Chair: Okay. I'm prepared to call the question.

Ms Blakeman moved that all of paragraph 4 be deleted except for the first sentence.

All in favour of Ms Blakeman's motion? Opposed? The motion is defeated.

Page 16, recommendation 16.

Ms Blakeman: Maybe Philip wants to respond to this one. You've got the *Hansard* in front of you. Again, this is a sort of accuracy issue for me.

Dr. Massolin: Yes, and I see the point because the section that's proposed for addition, section 20(6), was discussed in the *Hansard* transcript for sure, but I don't think that there was a decision by the committee as to whether or not it did cover what it was purported to cover.

I think maybe Ms Mun has additional information on that. Not to put you on the spot, Ms Mun.

Ms Mun: Okay. Section 20(6) allows a public body to disclose to a victim in response to an access request information relating to the reasons as to why a decision not to prosecute was made. So I don't think it addressed the issue. If I recall, the discussion of the committee was providing information about a perpetrator to a victim. Section 20(6) is very specific.

Ms Blakeman: What's your conclusion, then, about the proposal?

Ms Mun: Well, section 20(6) is dealing with information relating to the reasons why a decision was made not to prosecute whereas your issue was information about a perpetrator to a victim.

Ms Notley: She thinks your characterization is not accurate.

Ms Blakeman: Oh, okay. Well, I just was reflecting back to the discussion and thought it was part of the discussion and that it should have been reflected in what we were talking about, but if it's not and it's not backed up by *Hansard*, then I won't proceed.

Dr. Massolin: As I said, Mr. Chair, it was certainly alluded to in *Hansard*, but I don't think the committee came to a conclusion. I think Ms Blakeman basically said that she thought it was covered by 20(6), but that's where it was left, so I didn't reflect it as a result.

Ms Blakeman: Okay. I think we're in the same argument now that we were then. I think it should be in there, but other people don't, so I guess we'll move on.

The Chair: Okay. I'm taking that as a withdrawal of the motion. We'll move on to page 19, recommendation 22.

Ms Blakeman: Does the research staff or the Privacy Commissioner want to speak to this?

The Chair: Ms Mun, nothing?

Ms Mun: I think your suggestion is just wording, to make it more readable.

Ms Blakeman: Yeah. I just thought this was more lay language. That's why I was suggesting it. You guys are okay with that? Okay.

Mr. Olson: I just had a question about this one. Are you suggesting that the proposed wording that you have, Ms Blakeman, would totally replace the whole paragraph?

Ms Blakeman: Yeah.

Mr. Olson: In the middle of page 19?

Ms Blakeman: Yes.

Mr. Olson: Okay.

The Chair: Any further comment?

Then I will call the question on the motion as presented by Ms Blakeman. Ms Blakeman moved that

the text of the paragraph preceding the recommendation be amended to read: "The Committee heard that a similar provision in the Personal Information Protection Act (PIPA) was amended to expressly prohibit the Commissioner from disclosing information relating to the commission of an offence to the Minister of Justice and Attorney General if the information is subject to solicitor-client privilege."

All in favour? Opposed? It's defeated.

Okay. Ms Blakeman has brought forward a number of ideas, suggestions that she had. Has anyone else got any comments or similar observations that they'd like to make on this draft report?

Ms Mun, you had a minor issue that you had identified. Would you like to bring it up, about the statute review?

7:20

Ms Mun: Oh, right. Thank you. Under section 97 of the FOIP Act it talks about when the next legislative review will occur, and in the previous FOIP review the committee had made a recommendation that the review be conducted in six years. That was back in 2002. I just wanted to know whether or not this committee would be making a recommendation as to the next legislative review.

The Chair: What's that, Ms Notley?

Ms Notley: Oh, nothing.

The Chair: No? Are you not going to suggest a date or anything?

Ms Notley: We might as well.

Mr. Lindsay: Well, if we're ready for a motion, I think it's important that we have a review date. I think six years worked fairly well in the past, so I'd throw that on the table and see where it takes us.

The Chair: Okay. The motion by Mr. Lindsay as it pertains to section 97 is that

this committee would recommend that a further review take place in six calendar years.

All in favour? Opposed? Carried.

Okay. As far as the direction for the staff now, I think we've got a couple of changes that Ms Blakeman has presented that have been approved. As I would see it, we could entertain a motion (a) that the Standing Committee on Health authorize the chair and deputy chair to finalize the report on the committee's review of the freedom of information act based on the discussions held tonight

or (b) that we could have a review of the revised final draft report on November 2, which we had scheduled.

Mr. Lindsay: Why can't we just approve the report as amended this evening and be done with it?

The Chair: I think that's what you were inferring under (a).

Mrs. Sawchuk: Yes, Mr. Chair.

Ms Blakeman: It's whether all of the committee sees the revised draft, or we empower the chair and the deputy chair to look at the final draft. I know that there are minority reports coming, but we'll talk about that under other business.

The Chair: There are? After all of the co-operative spirit we've had?

Ms Blakeman: Absolutely, and I will co-operate further by giving you a minority report.

The Chair: Wow.

Mr. Horne: Mr. Chair, in the past with reports of this committee we have had the option – I'm not sure if it was (a) or (b); sorry – whereby the chair and the deputy chair finalized the report based on the discussions of the committee. I think part and parcel of that was also a circulation of the revised draft to all committee members so that committee members had an opportunity to talk to the chair or deputy chair about any concerns. We've certainly done that in the past. I think it's worked to the satisfaction of everyone, so I would support that option.

The Chair: The committee clerk has assured me that you would get to see a copy of this revised final draft before so that the deputy chair and I aren't pulling a fast one on you.

Is that a motion that's acceptable to the committee?

Mr. Quest: Yes.

Hon. Members: Agreed.

The Chair: Mr. Quest has made it.

Mr. Quest: Oh, okay.

The Chair: Well, you're the first one that said aye.

Mr. Quest: All right. Good enough.

The Chair: All in favour? Opposed? That's carried.

Our meeting that was to be on November 2 is no longer required. I do think we're finished for tonight.

Ms Blakeman: Don't we have other business?

The Chair: Oh, I'm sorry. I apologize.

Ms Blakeman: No problem. I note under Standing Order 68(2) that minority reports are included in the final reports. I do plan on doing a short minority report. I can give you oral notice now that I'm going to do a short minority report, but what I really need to know from the research staff is the deadline that they need me to work to.

Please, I hope it's not tomorrow. If I could get an indication of when they would need it from me, I would be appreciative.

The Chair: Dr. Massolin.

Dr. Massolin: Yes, Mr. Chair. I can tell you what's happened sort of in the past few years when it's come to minority reports. The practice has been for the committee to approve the final report, often through the process that the committee just agreed to, and then after that the minority report is appended to the final report. Obviously, it's not up to me to determine the time frame, but I would imagine that it would take about a week to a week and a half for the final report to be prepared and maybe up to two weeks to be finalized. That's kind of the rough estimation. So within that time frame I think, then. It could be a little bit longer, depending on how long it takes to approve, but it's roughly around a two-week time frame.

Ms Blakeman: Well, I can get it to you by Friday.

Ms Notley: Could you, like, not get too excited about that?

Ms Blakeman: I just didn't want to have to do it by tomorrow. I'm sorry; did you have a different timeline you wanted to work to?

Ms Notley: I always like a different timeline. Yeah, two weeks sounds good.

The Chair: Are we talking about two short minority reports, then? You know, you've just said.

Ms Blakeman: Well, I plan for mine to be less than a page.

Ms Notley: Well, I don't know. Have you ever heard me speak?

The Chair: We can help you with that.

Ms Notley: No. I'm sure it will be fairly brief.

The Chair: Okay. The committee clerk had indicated just for our own reference that originally we had hoped to have everything ready by November 15. Seeing that today is October 25 and that Ms Blakeman could have it done by Friday and Dr. Massolin said that a couple of weeks was adequate, let's shoot for a deadline of November . . .

Ms Blakeman: Fifteenth?

The Chair: No. A little bit before because we've got Remembrance Day in there messing things up, and we do have a constituency break. People can maybe get it done in a way that when we come back it's ready to go for the 15th.

Ms Blakeman: Oh, yes. So you're saying you want to be able to table it in the House on the Monday after constituency week?

The Chair: Just to comply with the mandate that was given to us, yeah.

Ms Blakeman: Well, I can supply my minority report by Friday, so I can meet that.

The Chair: Yeah.

Ms LeBlanc had provided some advice that I think we should have a motion on: the adoption of her suggested changes on 4, 8, 10, and 12.

Ms LeBlanc: Mr. Chair, there are proposed changes in 4, 8, 10, 11, and 12, but we've already dealt with 4 through the discussion with Ms Blakeman. We'd just be looking for a direction as to whether we can incorporate those changes in recommendations 8, 10, 11, and 12. Within the section dealing with 11(1)(a), if we delete (a) in recommendation 8, then all references to (a) in the narrative would be deleted as well.

7:30

Mr. Horne: Mr. Chair, I would move that the committee adopt the changes proposed by Ms LeBlanc with respect to recommendations 8, 10, 11, and 12.

The Chair: Thank you. Seeing no objections, all in favour? Opposed? Carried.

Folks, we'll need a motion to adjourn, but I think that at the last meeting I honestly thanked everyone for their co-operative spirit

because I do think it's worked out very well. I want to thank each and every one of you for that.

I want to thank especially our research staff and our office of the Privacy Commissioner representatives and Service Alberta for being here all the time and helping us as much as you have. I hope you felt like you were part of it. I boo-booed quite often: I'd say an individual's first name, and I guess with *Hansard* recording everything for people, it's supposed to be a little bit more formal. I think it works better when it isn't, but that's just my opinion.

I want to thank you, Roger, and everyone else from *Hansard* for helping us as well. So thank you.

I will now accept a motion to adjourn.

Mr. Vandermeer: So moved.

The Chair: Mr. Vandermeer. All in favour? Opposed? It is unanimous.

[The committee adjourned at 7:32 p.m.]

